

SOME PERSONAL OBSERVATIONS OF SENATOR SAM J. ERVIN, JR.
RESPECTING WATERGATE

Since the Senate Select Committee on Presidential Campaign Activities is filing with the Senate its final report concerning the investigation that body authorized and directed it to make, I deem it appropriate to state as succinctly as possible some of my personal observations respecting the tragic events known collectively as the Watergate, which disgraced the presidential election of 1972.

In doing this, I ask and endeavor to answer these questions: What was Watergate? Why was Watergate? Is there an antidote which will prevent future Watergates? If so, what is that antidote?

Before attempting to answer these questions, I wish to make these things plain:

1. I am not undertaking to usurp and exercise the power of impeachment, which the Constitution confers upon the House of Representatives alone. As a consequence, nothing I say should be construed as an expression of an opinion in respect to the question of whether or not President Nixon is impeachable in connection with the Watergate or any other matter.
2. Inasmuch as its Committee on the Judiciary is now studying whether or not it ought to recommend to the House the impeachment of the President, I shall also refrain from making any comment on the question of whether or not the President has performed in an acceptable manner his paramount constitutional obligation "to take care that the laws be faithfully executed."
3. Watergate was not invented by enemies of the Nixon Administration or even by the news media. On the contrary, Watergate was perpetrated upon America by White House and political aides, whom President Nixon himself had entrusted with the management of his campaign for reelection to the Presidency, a campaign which was divorced to a marked degree from the campaigns of other Republicans who sought election to public office in 1972. I note at this point without elaboration that these White House and political aides were virtually without experience in either government or politics apart from their association with President Nixon.

4. Life had not subjected these White House and political aides to the disadvantaged conditions which are glibly cited as the causes of wrongdoing. On the contrary, fortune had smiled upon them. They came from substantial homes, possessed extraordinary talents, had had unusual educational opportunities, and occupied high social positions.

5. Watergate was unprecedented in the political annals of America in respect to the scope and intensity of its unethical and illegal actions. To be sure, there had been previous milder political scandals in American history. That fact does not excuse Watergate. Murder and stealing have occurred in every generation since earth began, but that fact has not made murder meritorious or larceny legal.

What Was Watergate?

President Nixon entrusted the management of his campaign for reelection and his campaign finances to the Committee for the Reelection of the President, which was headed by former Attorney General John N. Mitchell, and the Finance Committee to Reelect the President, which was headed by former Secretary of Commerce, Maurice Stans. Since the two committees occupied offices in the same office building in Washington and worked in close conjunction, it seems proper to call them for ease of expression the Nixon Re-election Committees.

Watergate was a conglomerate of various illegal and unethical activities in which various officers and employees of the Nixon Re-election Committees and various White House aides of President Nixon participated in varying ways and degrees to accomplish these successive objectives:

1. To destroy insofar as the presidential election of 1972 was concerned the integrity of the process by which the President of the United States is nominated and elected.
2. To hide from law enforcement officers, prosecutors, grand jurors, courts, the news media, and the American people the identities and wrongdoing of those officers and employees of the Nixon Re-election Committees, and those

White House aides who had undertaken to destroy the integrity of the process by which the President of the United States is nominated and elected.

To accomplish the first of these objectives, the participating officers and employees of the Reelection Committees and the participating White House aides of President Nixon engaged in one or more of these things:

1. They exacted enormous contributions -- usually in cash -- from corporate executives by impliedly implanting in their minds the impressions that the making of the contributions was necessary to insure that the corporations would receive governmental favors, or avoid governmental disfavor while President Nixon remained in the White House. A substantial portion of the contributions were made out of corporate funds in violation of a law enacted by Congress a generation ago.

2. They hid substantial parts of these contributions in cash in safes and secret deposits to conceal their sources and the identities of those who had made them.

3. They disbursed substantial portions of these hidden contributions in a surreptitious manner to finance the bugging and the burglary of the offices of the Democratic National Committee in the Watergate complex in Washington for the purpose of obtaining political intelligence; and to sabotage by dirty tricks, espionage and scurrilous and false libels and slanders the campaigns and the reputations of honorable men, whose only offenses were that they sought the nomination of the Democratic Party for President and the opportunity to run against President Nixon for that office in the presidential election of 1972.

4. They deemed the departments and agencies of the Federal Government to be the political playthings of the Nixon Administration rather than impartial instruments for serving the people, and undertook to induce them to channel federal contracts, grants, and loans to areas, groups, or individuals so as to promote the reelection of the President rather than to further the welfare of the people.

5. They branded as enemies of the President individuals and members of the news media who dissented from the President's policies and opposed his reelection, and conspired to urge the Department of Justice, the Federal Bureau of Investigation, the Internal Revenue Service, and the Federal Communications Commission to pervert the use of their legal powers to harass them for so doing.

6. They borrowed from the Central Intelligence Agency disguises which E. Howard Hunt used in political espionage operations, and photographic equipment which White House employees known as the "Plumbers" and their hired confederates used in connection with burglarizing the office of a psychiatrist which they believed contained information concerning Daniel Ellsberg which the White House was anxious to secure.

7. They assigned to E. Howard Hunt, who was at the time a White House consultant occupying an office in the Executive Office Building, the gruesome task of falsifying State Department documents which they contemplated using in their altered state to discredit the Democratic Party by defaming the memory of former President John Fitzgerald Kennedy, who as the hapless victim of an assassin's bullet had been sleeping in the tongueless silence of the dreamless dust for nine years.

8. They used campaign funds to hire saboteurs to forge and disseminate false and scurrilous libels of honorable men running for the Democratic presidential nomination in Democratic Party primaries.

During the darkness of the early morning of June 17, 1972, James W. McCord, the security chief of the John Mitchell Committee, and four residents of Miami, Florida, were arrested by Washington police while they were burglarizing the offices of the Democratic National Committee in the Watergate complex to obtain political intelligence. At the same time, the four residents of Miami had in their possession more than fifty \$100 bills which were subsequently shown to be a part of campaign contributions used by the Nixon Reelection Committees.

On September 15, 1972, these five burglars, E. Howard Hunt, and Gordon Liddy, General Counsel of the Stans Committee, were indicted by the grand jury on charges arising out of the bugging and burglary of the Watergate.

They were placed on trial upon these charges before Judge John Sirica, and a petit jury in the United States District Court for the District of Columbia in January, 1973. At that time, Hunt and the four residents of Miami pleaded guilty, and McCord and Liddy were found guilty by the petit jury. None of them took the witness stand during the trial.

The arrest of McCord and the four residents of Miami created consternation in the Nixon Reelection Committees and the White House. Thereupon, various officers and employees of the Nixon Reelection Committees and various White House aides undertook to conceal from law enforcement officers, prosecutors, grand jurors, courts, the news media, and the American people the identities and activities of those officers and employees of the Nixon Re-election Committees and those White House aides who had participated in any way in the Watergate affair.

Various officers and employees of the Nixon Reelection Committees and various White House aides engaged in one or more of these acts to make the concealment effective and thus obstruct the due administration of justice:

1. They destroyed the records of the Nixon Reelection Committees antedating the bugging and the burglary.
2. They induced the Acting Director of the F.B.I., who was a Nixon appointee, to destroy the State Department documents which E. Howard Hunt had been falsifying.
3. They obtained from the Acting Director of the F.B.I. copies of scores of interviews conducted by F. B. I. agents in connection with their investigation of the bugging and the burglary, and were enabled thereby to coach their confederates to give false and misleading statements to the F.B.I.

4. They sought to persuade the F. B. I. to refrain from investigating the sources of the campaign funds which were used to finance the bugging and the burglary.

5. They intimidated employees of the Nixon Reelection Committees and employees of the White House by having their lawyers present when these employees were being questioned by agents of the F. B. I., and thus deterred these employees from making full disclosures to the F. B. I.

6. They lied to agents of the F. B. I., prosecutors, and grand jurors who undertook to investigate the bugging and the burglary, and to Judge Sirica and the petit jurors who tried the seven original Watergate defendants in January, 1973.

7. They persuaded the Department of Justice and the prosecutors to take out-of-court statements from Maurice Stans, President Nixon's chief campaign fund raiser, and Charles Colson, Egil Krogh, and David Young, White House aides, and Charles Colson's secretary, instead of requiring them to testify before the grand jury investigating the bugging and the burglary in conformity with the established procedures governing such matters, and thus denied the grand jurors the opportunity to question them.

8. They persuaded the Department of Justice and the prosecutors to refrain from asking Donald Segretti, their chief hired saboteur, any questions involving Herbert W. Kalmbach, the President's personal attorney, who was known by them to have paid Segretti for "dirty tricks" he perpetrated upon honorable men seeking the Democratic presidential nomination, and who was subsequently identified before the Senate Select Committee as one who played a major role in the secret delivery of "hush money" to the seven original Watergate defendants.

9. They made cash payments totaling hundreds of thousands of dollars out of campaign funds in surreptitious ways to the seven original Watergate defendants as "hush money" to buy their silence and keep them from

revealing their knowledge of the identities of the officers and employees of the Nixon Reelection Committees and the White House aides who had participated in the Watergate.

10. They gave assurances to some of the original seven defendants that they would receive presidential clemency after serving short portions of their sentences if they refrained from divulging the identities and activities of the officers and employees of the Nixon Reelection Committees and the White House aides who had participated in the Watergate affair.

11. They made arrangements by which the attorneys who represented the seven original Watergate defendants received their fees in cash from moneys which had been collected to finance President Nixon's reelection campaign.

12. They induced the Department of Justice and the prosecutors of the seven original Watergate defendants to assure the news media and the general public that there was no evidence that any persons other than the seven original Watergate defendants were implicated in any way in any Watergate related crimes.

13. They inspired massive efforts on the part of segments of the news media friendly to the administration to persuade the American people that most of the members of the Select Committee named by the Senate to investigate the Watergate were biased and irresponsible men motivated solely by desires to exploit the matters they investigated for personal or partisan advantages, and that the allegations in the press that had

seven original Watergate defendants had it not been for the courage and penetrating understanding of Judge Sirica, the thoroughness of the investigative reporting of Carl Bernstein, Bob Woodward, and other representatives of a free press, the labors of the Senate Select Committee and its excellent staff, and the dedication and diligence of Special Prosecutors Archibald Cox and Leon Jaworski and their associates.

Why Was Watergate?

Unlike the men who were responsible for Teapot Dome, the presidential aides who perpetrated Watergate were not seduced by the love of money, which is sometimes thought to be the root of all evil. On the contrary, they were instigated by a lust for political power, which is at least as corrupting as political power itself.

They gave their allegiance to the President and his policies. They had stood for a time near to him, and had been entrusted by him with great governmental and political power. They enjoyed exercising such power, and longed for its continuance.

They knew that the power they enjoyed would be lost and the policies to which they adhered would be frustrated if the President should be defeated.

As a consequence of these things, they believed the President's reelection to be a most worthy objective, and succumbed to an age-old temptation. They resorted to evil means to promote what they conceived to be a good end.

Their lust for political power blinded them to ethical considerations and legal requirements; to Aristotle's aphorism that the good of man must be the end of politics; and to Grover Cleveland's conviction that a public office is a public trust.

They had forgotten, if they ever knew, that the Constitution is designed to be a law for rulers and people alike at all times and under all circumstances; and that no doctrine involving more pernicious consequences to the commonweal has ever been invented by the wit of man than the notion

that any of its provisions can be suspended by the President for any reason whatsoever.

On the contrary, they apparently believed that the President is above the Constitution, and has the autocratic power to suspend its provisions if he decides in his own unreviewable judgment that his action in so doing promotes his own political interests or the welfare of the nation. As one of them testified before the Senate Select Committee, they believed that the President has the autocratic power to suspend the Fourth Amendment whenever he imagines that some indefinable aspect of national security is involved.

I digress to reject this doctrine of the constitutional omnipotence of the President. As long as I have a mind to think, a tongue to speak, and a heart to love my country, I shall deny that the Constitution confers any autocratic power on the President, or authorizes him to convert George Washington's America into Gaius Caesar's Rome.

The lust for political power of the presidential aides who perpetrated Watergate on America blinded them to the laws of God as well as to the laws and ethics of man.

As a consequence, they violated the spiritual law which forbids men to do evil even when they think good will result from it, and ignored these warnings of the King James version of the Bible:

1. "There is nothing covered, that shall not be revealed; neither hid, that shall not be known."
2. "Be not deceived; God is not mocked: For whatsoever a man soweth, that shall he also reap."

I find corroboration for my conclusion that lust for political power produced Watergate in words uttered by the most eloquent and learned of all the Romans, Marcus Tullius Cicero, about 2100 years ago. He said:

"Most men, however, are inclined to forget justice altogether, when once the craving for military power or political honors and glory has taken possession of them. Remember the saying of Ennius, 'When crowns are at stake, no friendship is sacred, no faith shall be kept.' "

As one after another of the individuals who participated in Watergate goes to prison, we see in action an inexorable spiritual law which Rudyard Kipling phrased in this fashion in his poem about Tomlinson's Ghost:

"For the sin ye do by two and two you must pay for one by one."

As we contemplate the motives that inspired their misdeeds, we acquire a new awareness of the significance of Cardinal Wolsey's poignant lament:

"Had I but serv'd my God with half the zeal
I serv'd my King, he would not in mine age
Have left me naked to mine enemies."

The Antidote For Future Watergates

Is there an antidote which will prevent future Watergates? If so, what is it?

The Senate Select Committee is recommending the enactment of new laws which it believes will minimize the danger of future Watergates and make more adequate and certain the punishment of those who attempt to perpetrate them upon our country.

Candor compels the confession, however, that law alone will not suffice to prevent future Watergates. In saying this, I do not disparage the essential role which law plays in the life of our nation. As one who has labored as a practicing lawyer, a judge, and a legislator all of my adult years, I venerate the law as an instrument of service to society. At the same time, however, I know the weakness of the law as well as its strength.

Law is not self-executing. Unfortunately, at times its execution rests in the hands of those who are faithless to it. And even when its enforcement is committed to those who revere it, law merely deters some human beings from offending, and punishes other human beings for offending. It

does not make men good. This task can be performed only by ethics or religion or morality.

Since politics is the art or science of government, no man is fit to participate in politics or to seek or hold public office unless he has two characteristics.

The first of these characteristics is that he must understand and be dedicated to the true purpose of government, which is to promote the good of the people, and entertain the abiding conviction that a public office is a public trust, which must never be abused to secure private advantage.

The second characteristic is that he must possess that intellectual and moral integrity, which is the priceless ingredient in good character.

When all is said, the only sure antidote for future Watergates is understanding of fundamental principles and intellectual and moral integrity in the men and women who achieve or are entrusted with governmental or political power.

Josiah Gilbert Holland, a poet of a bygone generation, recognized this truth in a poem which he called "The Day's Demand", and which I like to call "America's Prayer". I quote his words:

"God give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor -- men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty, and in private thinking."